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8	BEFORE THE
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Statement of Issues Case No. 2013-346
12	Against: STATEMENT OF ISSUES
13	KEVIN ANDREW ABEE
14	Registered Nurse License Applicant
15	Respondent.
16	Complainant alleges:
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18	PARTIES
19	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
20	in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
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	Department of Consumer Affairs.
22	Application Information
.23	2. On or about December 31, 2010, the Board received an Application for Licensure by
24	Endorsement from Kevin Andrew Abee ("Respondent"). On or about December 27, 2010, Kevin
25	Andrew Abee certified under penalty of perjury to the truthfulness of all statements, answers, and
26	representations in the application. The Board denied the application on November 7, 2011.
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## STATUTORY PROVISIONS

- 3. Section 2736 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under Code section 480.
  - 4. Code section 480 states, in pertinent part:
  - (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
  - (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
  - (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
  - 5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
- 6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription,

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## SECOND CAUSE FOR DENIAL OF APPLICATION

## (Committed Acts Which if Done by a Licentiate Would Constitute Cause for Discipline)

- 11. Respondent's application is subject to denial pursuant to Code sections 2736 and 480, subdivision (a)(3)(A), in that Respondent committed acts which if done by a licentiate constitute cause for suspension or revocation of a license pursuant to Code sections 2761, subdivision (f) and 2762, subdivisions (b) and (c), as set forth in paragraph 10 above and incorporated herein by reference. In addition, Respondent committed the following acts which if done by a licentiate constitute cause for suspension or revocation of a license pursuant to Code sections 2762, subdivision (a):
- Sheriff's Deputies while standing next to his parked car. Respondent was accompanied by two males, one who was standing with Respondent next to the passenger side of the vehicle (Male A), and one who was seated in the passenger seat (Male B.). The deputies observed two tablets of Percodan in a plastic wrapper on the ground between the front passenger door and the curb. A search of Respondent's vehicle found a pill container, with a pill cutter in the cap, wedged between the front passenger seat and the interior vehicle frame. The pill container held six Percodan tablets. A half tablet of Percodan was found on the center console near the stick shift. Wedged between the front passenger seat frame and the bottom portion of the door frames was \$280 in small bills and a Visa card belonging to the Male B. A search of the trunk of the vehicle produced two baggies of marijuana weighing 3.8 grams in the packaging. Respondent admitted to the possession of the marijuana but denied knowledge or ownership of the Percodan or the money.

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## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Denying the application of Kevin Andrew Abee for a Registered Nurse License;
- 2. Taking such other and further action as deemed necessary and proper.

DATED: October 29, 2012

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TOUSER BALLEY MED RN

**Executive Officer** 

Board of Registered Nursing Department of Consumer Affairs

State of California Complainant

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